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SUBJECT: TURKEY BLOCKS "YOUTUBE" AND OTHER POPULAR WEBSITES

REF: A. ANKARA 306

[1](#)B. ANKARA 151

Classified By: Political Counselor Janice G. Weiner, reasons 1.4 (b),(d)
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[1](#)1. (C) Summary and Comment: As Turkey's recent ban of the YouTube video sharing site entered its 13th day, a frustrated senior official at Google, YouTube's owner, told us Google would decide within three to six months whether to abandon operations in Turkey. Google contends that Turkey's current system of Internet regulation lacks transparency and is filled with "absurd" and unique legal requirements, such as allowing Turkish authorities to regulate companies' databases, effectively permitting Turkey to regulate their Internet content worldwide. Turkish Telecommunications Authority (TTA) officials respond that Turkey's 2006 Internet Law 5651 requires they implement the contested measures. Several telecommunications officials and politicians acknowledge Law 5651 was sloppily written, ill-thought out, and rushed through Parliament to respond to child pornography concerns. They are calling for review of the law as well as urgent basic Internet training for judicial officers. With parliament and the GOT distracted by the closure case filed against the ruling party, swift action on this issue is not likely. If Google pulls out, it will hurt Turkey's ability to attract foreign investment, particularly in the high-technology sector targeted in the GOT's action plan. End summary and comment.

Turkish Courts Block Popular Websites

[1](#)2. (U) Three Ankara courts ordered bans of the popular YouTube video portal March 12 and March 13, after prosecutors alleged posted videos violated a 1951 law prohibiting public insults of Turkey's founder Mustafa Kemal Ataturk. Google officials told us the videos were juvenile productions; one featured a twenty-something saying "fuck Turkey" in front of a Turkish flag approximately 100 times. TTA immediately enforced the ban. Users attempting to access the site receive notices the site was blocked by court order. When Google learned the address, or uniform resource locator (URL), of the allegedly offensive site several days later, it immediately removed the video and banned the user. However, the Ankara prosecutor refused to lift the ban until a court-appointed expert verified YouTube had removed the video from its data servers. The ban was lifted on March 28.

¶3. (U) Previous bans remain in place. The January 24 court order blocking "Slide Inc." for content insulting Ataturk continues. Slide, with approximately 150 million users worldwide, is a San Francisco-based privately-owned company offering a popular online program to create picture slide shows aimed at users of social networks such as Facebook and MySpace. An August 17 ban on wordpress.com -- a site hosting hundreds of thousands of blogs and popular among Americans in Turkey -- continues, even though only a handful contained allegedly defamatory content. Sporadic bans continue to block innocuous content ranging from CNN political blogs to CNN finance sites.

At Issue: Control Over Content

¶4. (U) At a March 25 conference of Turkish Internet regulatory officials, politicians and international observers, Google's European Policy Manager Patricia Moll explained that YouTube has no quarrel with Turkey's laws. Users can follow a simple system of "flagging" a video they believe violates a law or cultural sensitivities. YouTube's worldwide teams then review and, if necessary, remove the page, normally within two hours. This system is the only realistic way to monitor the more than 65,000 videos uploaded daily, Moll said. For the system to function effectively, YouTube needs to be informed, via a system such as flagging, of the URL of the offending video. Moll said TTA authorities, as well as most Turkish courts, are unwilling to provide Google with the relevant URLs. YouTube on its own must search for the alleged offender in its million-video haystack. YouTube often fails, leading the TTA to block the entire YouTube site.

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¶5. (U) Internet Law 5651's requirement that all Internet services legally register with the TTA is at the heart of the problem (ref A). TTA continues to withhold URL information from Google because Google refuses to register. In a roundtable discussion following Moll's presentation, TTA President Fehti Simsek explained that Law 5651 gives his office no discretion to make exceptions. He maintained the TTA must be able to monitor content because "freedom ends when one person's freedom impinges on another's." The TTA has extended the registration deadline April 24 to July 24.

Process Marred by Lack of Transparency

¶6. (U) Google's local counsel explained that Google receives no notice each time YouTube is blocked. The prosecutors who initiate the cases and the courts that consider the ban request possess the URLs in question. She must track down which court issued the blocking order, then trek to courthouses across Turkey to try to obtain the allegedly illegal URL. If she finds a receptive court, she may get the URL quickly.

¶7. (U) John Duncan, Slide's general counsel, told reporters the company received no formal notice of the ban, but learned from Turkish users in early February that some Slide services were not functioning. As the ban continued, it expanded to cover most applications on Slide's site and inside Facebook, where Slide is the most popular independent provider of applications. Duncan said Slide's policy is to comply with judicial rulings requiring removal of offensive or illegal content. In this case, the company could not learn what items had provoked the ban. Slide has hired local counsel in Turkey to try to resolve the issue with the judicial system.

Google Highlights "Absurd" Legal Requirements

¶8. (C) Moll told us privately the Ankara prosecutor is not familiar with Internet technology and only recently learned users can easily circumvent bans by using proxy servers. (A

March 27 article in "Taraf" newspaper explains to readers one simple method.) He since initiated a new requirement: Google must remove the offending video from its data servers -- a step that effectively makes it inaccessible worldwide. Moll said Google would only institute such a drastic measure if a video contains dangerous or violent content. These "juvenile" videos about Ataturk may be illegal in Turkey but do not rise to that level, according to Moll.

¶9. (C) Moll told us the prosecutor also asked Google to provide the Internet Protocol (IP) address of the users who posted the videos. She explained that Google's policy is not to comply with such court orders if Google believes the court order is politically motivated. Here, she believes the prosecutors are under political pressure to hold individuals legally accountable, and fears turning over the IP information would put the individual users at risk. Google therefore could not comply with this request, she said.

¶10. (C) Moll lambasted the TTA's attempt to enforce its unique registration requirement that, in Google's view, is an extraterritorial application of Turkish law. Google is bound only by U.S. law because it has no legal presence in Turkey -- it is a California company that hosts all of its data there. Under such reasoning, Turkey would could monitor and regulate any site Turkish users worldwide can view, even though the company has no physical or legal presence in Turkey. Moll believes TTA officials do not understand the concept of extraterritoriality. "They see Google employs a country representative and that Turks are accessing YouTube, and then conclude that they have the legal right to access our content." She noted that no other multinational -- Microsoft, Vodafone, Yahoo! -- has registered. In her view, the GOT believes if it gets Google, with 80% market share in Turkey, to sign up, others will follow. Moll maintained Google would abandon Turkey before complying with this "absurd" requirement.

¶11. (C) Google will decide within three to six months whether to continue to operate YouTube in Turkey, according to Moll. She claims to have lost all trust in Turkey's "politicized"

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courts and contends neither the ruling Justice and Development Party (AKP) nor state institutions genuinely believe in freedom of expression; otherwise they long ago would have abolished Turkish Penal Code Article 301 (criminalizing insulting "Turkishness") and ended the common practice of suing for defamation over ordinary political cartoons. Moll said she convinced Google to push economic arguments and resist the call by several senior officers to completely close shop (YouTube and Google) and launch a PR campaign portraying Turkey as a backward "censorship regime."

In the coming weeks, Google will try to persuade Turkish officials their current policy will have a several detrimental impact on foreign direct investment. If the GOT does not reverse course, Google's chief counsel will make one last attempt before pulling the plug on YouTube in Turkey.

Politicians, Industry Reps Call for Change

¶12. (U) Opposition Republican People's Party (CHP) MP Osman Coskunoglu commented at the March 25 conference that Internet Law 5651 was a sloppily-written law rushed through Parliament in spring 2007 to respond to a wave of reports about child pornography. AKP MPs Reha Denemec and Cuneyt Yuksel agreed. Coskunoglu said the law created a confusing set of overlapping jurisdictions and duties that has caused inter-agency miscommunication and led to confusion in companies such as Google. The enforcement regime also had inadvertently led Turkish youths to create offensive videos simply to garner front page headlines and cause shut-downs of major websites. Coskunoglu called for an urgent review of the law, and an immediate civil society effort to educate prosecutors and judges on basic Internet concepts that might

help bring some consistency to judicial rulings.

¶13. (U) Yusuf Ata Ariak, Chairman of the Turkish Competitive Telecommunication Operators Association, argued that the confusion is causing Google and other companies to expend considerable resources tracking down information that TTA could easily provide. Continuing the current process is untenable and will lead companies to leave Turkey, he predicted. The system is also distracting prosecutors and judges from truly important issues such as violent crime. Ariak recommended the various agencies dealing with the issue work together cooperatively to apply the law with Internet companies such as YouTube. Courts should be called on to intervene only as a last resort, he said.

¶14. (SBU) European Commission officers told us privately they believe Internet censorship is quickly becoming an area of high concern for the EU. They realize the Turkish judiciary is not equipped to handle Internet regulation, and plan to explore the possibility of funding judicial training programs. AKP MP Denemec and his staff followed up with TTA officials and continue to monitor the situation, including discussions by Justice Ministry and Transportation Ministry officials regarding instituting Internet training programs for the judiciary and the possibility of revising the Internet Law.

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